



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 31, 1994

Ms. Gretchen Kuehn Bohnert
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR94-146

Dear Ms. Bohnert:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.).¹ Your request was assigned ID# 22428.

The City of Houston (the "city") received a request for various documents relating to programs funded with federal monies and administered by the city since 1989. Specifically, the requestor seeks:

- (1) All U.S. Department of Housing and Urban Development (HUD) reports, correspondence or any related documents concerning HUD or Office of Inspector General (OIG) audits, reviews, studies or investigations of any program administered by the City of Houston's Department of Housing and Community Development, or related agencies or departments and funded in whole or part with federal funds since 1989.
- (2) Any and all documents relating to or concerning the following programs funded through the City of Houston or any of its departments: a) Baby Porch, b) Odyssey House, c) Palm Center and d) Martin Luther King Daycare Center.

The city has agreed to release some of the information to the requestor. You contend, however, that sections 552.106, 552.107, and 552.111 of the Government Code except the remaining information from required public disclosure. We address your arguments in turn.

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

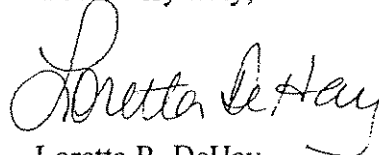
You claim that section 552.111 excepts from disclosure the documents submitted to this office that are marked as Exhibit C. Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. However, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5. While the documents in Exhibit C pertain to the policy functions of the city, some of the information contained in these documents is purely factual. We have marked those portions of the documents that may be withheld from required public disclosure under section 552.111. The remainder of the requested information in Exhibit C must be released.

You next argue that section 552.107 excepts the document marked as Exhibit D from required public disclosure. Section 552.107(1) excepts from disclosure information "that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas." In Open Records Decision No. 574 (1990), this office held that this exception protects information that reveals client confidences to an attorney or that reveals the attorney's legal advice. The document in Exhibit D is a legal memorandum prepared by a city attorney that reflects the attorney's legal advice regarding a specific matter. Exhibit D may therefore be withheld from disclosure under section 552.107(1).

Finally, you argue that section 552.106 excepts the document labeled as Exhibit E from public disclosure. Section 552.106 excepts from disclosure "a draft or working paper involved in the preparation of proposed legislation." Section 552.106 protects from disclosure information relating to the internal deliberative processes of a governmental body relevant to the enactment of legislation. Open Records Decision No. 429 (1985). You do not argue nor is it apparent from the face of the document that it pertains to the enactment of legislation. Therefore, Exhibit E must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

Ref.: ID# 22428

Enclosures: Marked documents

cc: Mr. Jack Balagia, Jr.
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(w/o enclosures)